



**Medical Quality Assurance Commission
January 11, 2008
Business Meeting Minutes**

Medical Commission Members

Cabell Tennis, Public Member, Chair
Les Burger, MD, 2nd Vice-Chair
Frederick H. Dore, Jr., MD
Ellen Harder, PA-C -Absent
Judith Page, Public Member -Absent
Theresa Elders, Public Member
Anthony Robins, MD
Thomas Green, MD
Linda Ruiz, Public Member
Frank Hensley, Public Member
Richard Brantner, MD

Samuel Selinger, MD, 1st Vice-Chair
Kenneth Cogen, MD - Absent
Susan Harvey, MD
Hampton Irwin, MD
Chelle Moat, MD-Absent
William Gotthold, MD
Judy Tobin, Public Member
Bruce Cullen, MD
Athalia Clower, PA-C
Anjan Sen, MD

Department of Health Staff:

Blake Maresh, Executive Director (Absent)
Jansen, Deputy Exec Director
Michael Farrell, Staff Attorney
Dani Newman, Compliance Officer
Dave Magby, Chief Investigator
Joe Mihelich, Program Representative

Beverly Teeter, Program Manager Maryella
George Heye, MD Medical Consultant
Erin Obenland, Disciplinary Manager
Karl Hoehn, Legal Services Manager
Jim McLaughlin, Staff Attorney

Others in Attendance

Melissa Burke-Cain, AAG
John Arveson, WSMA Director

Mick Oreskovich, MD, WPHP Director

BUSINESS MEETING

CALL TO ORDER

Commission Chair Cabell Tennis, JD called the meeting of Washington State Medical Quality Assurance Commission (MQAC) to order at 8:08 a.m. on January 11, 2008, at the Holiday Inn Renton at One South Grady Way, Renton WA.

CHAIR REPORT

The Chair reported on the work of the Executive Committee. He gave an update on "The Walk in the Woods" meeting held on November 6, 2007. The Chair reported that he had responded to the draft report sent by Dr. Leonard Marcus on December 22, 2007. He stated that as soon as the final version is completed the rest of the Commission would receive a copy of the report. In addition, he

reported that the Joint Operating Agreement discussion was tabled until after the Legislature session is completed.

The Chair stated the Legislature would reconvene on January 14, 2008 and reported on the bills that could possibly affect the Commission directly such as SHB 1103, as well as a bill that would give the Commission their independence. In addition, he knew of a possible amendment to RCW 43.70.240 regarding the joint operating agreement; that would require each board and commission to have an independent Executive Director.

The Chair reported that he had conversations with Speaker Chopp, Rep. Seaquist, and Rep. Hinkle and he knew some members had contact with their legislators. He reminded the Commission to report all contact with legislators to Mr. Maresh.

The Chair reported that Washington State Medical Association, Physicians Insurance attorneys, and some hospitals had contacted him regarding their concerns of the impact of the adopted sanctioning guidelines. He mentioned some of the difficulties working with the sanctioning guidelines, especially in the area of stayed suspensions to be the most complex.

The Chair mentioned the overload of cases staff attorneys have at this time. He suggested assigning staff attorneys who have previous experience working with the Commission to help bring the caseloads down to 40 to 50 cases files per staff attorney.

The Chair stated that each panel will be losing valuable members; Chelle Moat, MD and Kenneth Cogen, MD will be resigning from the Commission at the end of February.

The Chair requested a motion on behalf of the Executive Committee, to approve and support aiding the independence of the Commission and opposing the shift in disciplinary authority to the Department of Health Secretary, including bills from last year's resolution.

MOTION: The motion was seconded and approved unanimously.

1.0 CONSENT AGENDA

The consent agenda contained the following items for approval:

- 1.1** Agenda for January 11, 2008
- 1.2** Minutes from the November 30, 2007, business meeting

MOTION: The Chair entertained a motion to approve the consent agenda. The motion was seconded and approved.

2.0 PUBLIC POLICY COMMITTEE

2.1 Interpretive Statement on WAC 246-919-370 in the Credentialing of Practitioners who have Retired or Not Practiced for an Extended Amount of Time.

The Policy Committee made a recommendation to adopt the interpretive statement regarding the credentialing of practitioners who had retired or not practiced for an extended amount of time.

MOTION: The Chair entertained a motion to adopt the the interpretive statement. The motion was seconded and approved.

2.2 Guideline for Self-Prescribing and Prescribing for Family Members.

The Policy Committee made a recommendation to approve the language for the Guidelines for Self-prescribing. The current guidelines language parallels both the Washington State Medical Association and the American Medical Association guidelines.

MOTION: The Chair entertained a motion to approve the language. The Motion was seconded and approved.

2.3 Non-Surgical Cosmetic Procedures Draft Rules Update.

Samuel Selinger, MD reported on the Non-Surgical Cosmetic Procedures draft rules. Dr. Selinger stated the committee changed the title to Non-Surgical Medical Cosmetic Procedures to help keep clear of any miscommunication. He stated both MD and PA rules would state “prescriptive devices” or “medicine” to clear up the confusion.

2.4 Office-Based Surgery Rules Update.

Hampton Irwin, MD reported on the rules on office-based surgery (OBS). Dr. Irwin stated HB1414, which exempts conscious sedation from licensure. Dr. Irwin indicated the Policy Committee encouraged him to begin the drafting rule language using the current Office-Based Surgery guidelines as the template.

3.0 REPORTS

3.1 Finance - Les Burger, MD

Dr. Burger reported that the Finance Committee just received data from the Department this week. Dr. Burger reported that Linda Ruiz, Public Member has drafted a business plan, and she will add the data into the plan. He stated that there should be a draft for review at the next Commission meeting at the end of February. He requested a Commission member to fill Dr. Cogen’s upcoming vacancy. The Chair appointed Anthony Robins, MD, to fill the spot on the committee.

3.2 Joint Operating Agreement – Frank Hensley

Frank Hensley, Public Member reported that the Joint Operating Agreement Committee would not be active until after the Walk in the Woods report and after legislation session is over.

3.3 Continuing Competency – William Gotthold, MD

William Gotthold, MD reported on the work of the Continuing Competency Committee. Dr. Gotthold stated that the committee is struggling with the definition of competency. He mentioned that the committee is looking at the National Boards model to parallel. The Chair stated that this project could take up to a decade to come up with a plan.

3.4 Office-Based Surgery Rules- Hampton Irwin

Hampton Irwin, MD made his report which was reflected in 3.4 under Office-Based Surgery Rules Update.

3.5 Non-Surgical Medical Cosmetic Procedures Rules – Sam Selinger, MD

Dr. Selinger made his report, which was reflected in 3.3 under Non-Surgical Cosmetic Procedures Draft Rules Update.

3.6 Physician Assistant Advisory Committee – Athalia Clower, PA-C

Athalia Clower, PA-C requested the Commission approval to begin rule making for WAC 246-918-030, WAC 246-918-035, WAC 246-918-130, and WAC 246-918-140. Ms. Clower stated the PA Committee had determined to begin with these rules to combine PA-C and PA language. She mentioned the rules would be written in plain talk. Ms. Clower stated that Peter Harris is the staff attorney assigned to this assist the committee with its rule writing.

MOTION: The Chair entertained a motion to approve the request for rulemaking and start the CR 101 process.

3.7 Investigation Task Group – Les Burger, MD

Dr. Burger reported that the investigation and legal task group has merged into one. Dr. Burger reported the task group had a conference call. Dr. Burger suggested a pilot process on setting up case files. The Commission discussed this issue at length. The Commission suggested having an electronic file would be the ideal process. Dr. Robins mentioned that Oregon Board is able to view files electronically.

Ms. Tobin suggested that during the Case Management Team, (CMT) conference call direction can be given to investigators on what is needed in the file.

Susan Harvey, MD stated Panel B is sending in advance electronic summaries of the cases proposed for closure to allow more time for cases that might require a statement of allegations or a statement of charges.

5.0 OTHER BUSINESS

5.1 Procedure 205 – Case Disposition Decisions

Maryella Jansen, Deputy Executive Director deferred this item to a lunchtime discussion at the next meeting.

5.2 Discussion on Recent Articles on Physician Professional Standards

Ms. Teeter opened the discussion reminding Commission members not to have an online meeting when articles or other items are sent to all members. She requested if any Commission member would like to add an item to the agenda regarding information on articles that are sent electronically to let her know.

Dr. Burger suggested a library format on the Commission's website to have a quick electronic reference. Thomas Green, MD, asked what constitutes an electronic

meeting. Ms. Burke-Cain indicated her concern about a possible quorum which could then violate the Open Public Meeting Act. She offered to do a lunchtime discussion on this matter. The Chair requested she look into the matter of the Commission having a website “BLOG” and whether or not a “BLOG” would violate the open meeting act.

MEMBERS REPORTS

Mr. Hensley reported concerns about the Commission being mentioned in an article about an action taken by the Commission. The article mentioned that the DOH took action against health care provider. He requested that he be able to discuss concerns with the communication staff about what is released by the communication office. Ms. Jansen mentioned having the Department’s communication staff provide a lunchtime presentation on matters regarding the media. Dr. Selinger requested to have more of a discussion, rather than a presentation. Ms. Burke-Cain stated having a formal training would be beneficial.

MOTION: The Chair entertained a motion allowing Mr. Hensley the authority to discuss the matter of communication of MQAC business and press releases with DOH. The motion was seconded and approved.

Leslie Burger, MD, reported on a publication that was sent by the Federation of State Medical Boards (FSMB) on guidelines for treating non-cancerous pain. Dr. Burger stated concerns about not having educational material available to all physicians. He suggested this kind of educational material should be put into the budget plans.

7.0

STAFF MEMBER REPORTS

7.1 Executive Director / Deputy Executive Director

Ms. Jansen reported that she would call the leadership on profession specific legislation bills when they are introduced. She mentioned that the Legislative session begins January 14 and will conclude on March 14, unless a special session is required. Ms. Jansen stated that the “Meet Me Calls” are for scope of practice that affects multiple professions. Ms. Jansen stated that she is the lead person for legislation for Section five, which includes Osteopathic and Podiatric Board, Naturopathic Committee, Radiological and X-Ray Techs, and Retired Medical Workers.

Ms. Jansen reported that she has been working with Dr. Dore and Ms. Tobin on compliance procedures. Ms. Jansen stated several concerns to include not having the reviewing commission member and/or staff attorneys present at the time of the compliance appearance or hearing. She mentioned she would have a proposed revised procedure available at the next meeting.

7.2 Assistant Attorney General

Ms. Burke-Cain reported on a case that went to Superior Court and Court of Appeals based on claims for damage to patients based on delay in the disciplinary process. She stated that the Commission was victorious in this decision. Ms. Burke-Cain

mentioned this was an excellent decision; however, the decision is unpublished and would not be available as a reference in future cases. She stated her office is working to make parts or all of the decision published.

7.3 Program Manager

Ms. Teeter confirmed a recognition dinner for Dr. Ken Cogen, Dr. Chelle Moat, Dr. Jo Deevey, and former AAG Advisor Pamela Anderson on Thursday February 28, 2008.

Ms. Teeter reported on the upcoming Federation of State Medical Boards annual meeting in San Antonio, Texas on May 1-3, 2008. She requested members of the Commission to email her if they are interested in attending this meeting.

Ms. Teeter reported there are two new email sites for Non-Surgical Medical Cosmetic Procedures and Office-Based Surgery in order to keep the information regarding the rules process organized.

7.4 Disciplinary Manager

Erin Obenland, Disciplinary Manager mentioned there would be some special sets for hearings between July-October, because the August meeting is a workshop and no hearings would be linked to this meeting.

7.5 Medical Consultant

George Heye, MD reported reviewing commission members received 642 cases in 2007. He reported the six public members received on average 15-20 cases and clinical members received on average 45-50 cases to review.

The meeting adjourned at 10:30 a.m.

8.0 ADJOURNMENT

Respectfully submitted by:

Joe Mihelich, Office Assistant III
Approved February 29, 2007

Cabell Tennis, JD, Chair
Medical Quality Assurance Commission